IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

COMPANY PETITION NO.474 OF 2006

Courcan Cargo (India) Pvt. Ltd. ...Petitioner.
Vs.
M/s. Zenith Computers & Ors. ...Respondents.
....
Mr. Pradip Shukla for the Petitioner.
Mr.Ramesh Pandey i/b. M.U. Pandey for the Respondents.
.....

CORAM : DR.D.Y.CHANDRACHUD, J.
15th March 2007.

P.C.:

After the Company Petition has been heard, the following order is passed on the request of and with the consent of Counsel appearing on behalf of the Petitioner and the Respondents who are agreed that no further reasons are required:

(i) The Respondents shall furnish a Bank Guarantee of a Nationalized Bank to the satisfaction of the Prothonotary and Senior Master, in the amount of Rs. 2.65 lakhs within a period of four weeks from today;

(ii) The Petitioner shall be at liberty to file a suit on the Original Side of this Court for the recovery of its dues on account of

freight charges amounting to Rs.2,65,308/- together with interest upon the deposit in terms of (i) above being notified by the Advocate for the Respondent to the Advocate for the Petitioner. Thereupon the Bank Guarantee shall enure to the benefit of the suit account and shall be kept renewed pending the disposal of the suit;

(iii) The Petitioner shall be at liberty to seek interim relief in the suit;

-(iv) In the event that the Respondents fail to furnish the bank guarantee as directed above within the period stipulated, it would be open to the Petitioner to apply for revival of this petition and to seek necessary directions in regard to the admission of the Petition;

-(v) If a suit is not filed within 4 months of the Petitioner's Advocate being notified of the furnishing of a bank guarantee, the Respondent shall be at liberty to apply for orders for the discharge of the guarantee;

(v) This order would be without prejudice to the rights and

contentions of the parties in the suit.

The petition is disposed of in the aforesaid terms since no other point has been pressed.

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